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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/665,691	09/19/2003	Mark Edward Simek	109934-43	6239

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EXAMINER

SHEDRICK, CHARLES TERRELL

ART UNIT PAPER NUMBER

2687

DATE MAILED: 12/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/665,691	SIMEK ET AL.	
	Examiner	Art Unit	
	Charles Shedrick	2687	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 1-7, 9-12, 14-15, 18, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oda (U.S. Patent # 5,703,392) in view of Sato (U.S. Patent # 6,625,283).

Consider **claim 1**, Oda clearly shows and discloses a mobile phone housing **100** including a front face having the maximum width **W** and a maximum height **H** (**figure 1**), a first side face (**figure 3**), and a second side face (**figure 6**), wherein the first side face and the second side face are substantially perpendicular to the front face (**see figures 1,3, and 6**); a speaker **22** disposed in and outwardly directed from the front face of the front housing (**figure 1, Column 3 lines 6-32**); a microphone **23** disposed in and outwardly directed from the front face of the housing (**figure 1, Column 3 lines 6-32**); and spaced a distance **D** apart when the mobile phone is extended to the maximum height (**figure 1**);

a display **19** disposed in and outwardly directed from the front face of the housing (**figure 1, column 3 line 16**); a phone number keypad comprising at least ten telephone number input keys numbered 0-9 to dial a phone number to place a call (**i.e., keys 3- 12**)(**figure 1, column 2 lines 22-26**).

However, Oda does not clearly disclose a phone number keypad disposed in and outwardly directed from the first side face.

In the same field of endeavor, Sato clearly show and disclose a phone number keypad disposed in and outwardly directed from the first side face (**figures 1,2,5,6**)

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Oda to include the phone number keypad disposed in and

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outwardly directed from the first side face as taught by Sato for the purpose of single hand entry and thumb key strokes.

Consider **claim 9**, Oda clearly shows a mobile phone, comprising: a front face having, a width W and a maximum height H (**figure 1**), the front face comprising: a speaker **22**, a microphone **23**, a display **19** wherein the microphone is spaced a distance D from the speaker when the front face is positioned at the maximum height H (**figure 1, Column 3 lines 24-32**); wherein the speaker, the microphone, and the display are positioned so that the ratio of the distance to width is greater than 4 as shown in figures 1 and 4; and a side face substantially perpendicular to the front face and having a maximum height H and a thickness T as shown in figures 1 and 4; and phone number keypad comprising a keypad key for each of the numbers 0 through 9 (i.e., keys **3- 12**)(**figure 1, column 2 lines 22-26**).

However, Oda does not clearly disclose a phone number keypad on the side face.

In the same field of endeavor, Sato clearly show and disclose a phone number keypad on the side face (**figures 1,2,5,6**)

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Oda to include the phone number keypad on the side face as taught by Sato for the purpose of single hand entry and thumb key strokes.

Consider **claim 17**, Oda clearly show and disclose a housing comprising a display face **19** having a length L and a width W (**figure 1**); a speaker **22** disposed in and outwardly directed from the display face of the housing (**figure 1**);

a display **19** disposed in and outwardly directed from the display face of the front housing (**figure 1**);

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a microphone 23 disposed in and outwardly directed from the display face (**figure 1, Column 3 lines 24-32**);

telephone keypad 3-12, the telephone keypad comprising at least ten telephone number input keys numbered from 0 to 9 to dial a phone number to place a call (**figure 1, column 2 lines 22-26**).

However, Oda does not clearly disclose a phone number keypad on the side face.

In the same field of endeavor, Sato clearly show and disclose a phone number keypad on the side face (**figures 1,2,5,6**)

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Oda to include the phone number keypad on the side face as taught by Sato for the purpose of single hand entry and thumb key strokes.

Consider **claims 2 and 18**, and **as applied to claim 1 and 17 above**, Oda as modified by Sato also shows and discloses a mobile phone wherein the telephone input keys are linearly aligned (**figure 1, column 3, lines 6-10**).

Consider **claim 3** and **as applied to claims 1 above**, Oda clearly shows the claimed invention except wherein the first side face is a right side face with respect to the front face such that the telephone number input keys are located on the right side face.

In the same field of endeavor, Sato shows wherein the first side face is a right side face with respect to the front face such that the telephone number input keys are located on the right side face (**figures 1,2,5,6**).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Oda to include the phone number keypad on the side face as taught by Sato for the purpose of single hand entry and thumb key strokes.

Consider **claim 4**, and **as applied to claim 1 above**, Oda as modified by Sato also shows a mobile phone further comprising a thumb keypad (see **Oda figure 1**).

Consider **claim 5**, and **as applied to claim 1 above**, Oda as modified by Sato also shows wherein the distance D to width W is greater than 4 (see **Oda figure 1**).

Consider **claim 6** and **as applied to claim 1 above**, Oda as modified by Sato also shows in figure 2 and figure 3 a mobile phone that includes a thickness, and the ratio of the width to the thickness is less than 2.

Consider **claim 7** and **as applied to claim 1 above**, Oda as modified by Sato also shows in figure 1 at least ten telephone number input keys further comprise a "*" key and a "#" (i.e., input keys 3-18) (**figure 1**).

Consider **claim 10**, and **as applied to claim 9 above**, Oda as modified by Sato also shows and discloses a mobile phone wherein the telephone input keys are linearly aligned with respect to the maximum height H (**figure 1, column 3, lines 6-10**).

Consider **claim 11**, and **as applied to claim 9 above**, Oda as modified by Sato also shows and discloses a mobile phone wherein the side face is one of a left side face and a right side face (**figures 3 and 6, column 2, lines 45-67**).

Consider **claim 12**, and **as applied to claim 9 above**, Oda clearly shows the claimed invention except wherein the phone number keypad is located adjacent to an intersection between the front face and the one of the left side face and the right side face.

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In the same field of endeavor, Sato clearly show and disclose wherein the phone number keypad is located adjacent to an intersection between the front face and the one of the left side face and the right side face (**figures 1,2,5,6**)

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Oda to include wherein the phone number keypad is located adjacent to an intersection between the front face and the one of the left side face and the right side face as taught by Sato for the purpose of single hand entry and thumb key strokes.

Consider **claim 14** and **as applied to claim 9 above**, Oda also shows in figure 2 and figure 3 wherein the ratio of the width to the thickness is less than 2.

Consider **claim 15** and **as applied to claim 10 above**, Oda as modified by Sato also show in figure 1 wherein the plurality of telephone number input keys further comprise a “*” key and a “#”(i.e., input keys 3-18) (**figure 1**).

Consider **claim 20**, and **as applied to claim 17 above**, Oda as modified by Sato also shows wherein a ratio of the display face length to the display face width W is greater than 4 (**i.e., see Oda figure 1**).

Claims 8, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Oda** in view of **Well known Prior Art (MPEP 2144)**

Consider **claims 8 and 16**, and **as applied to claims 1 and 10 above**, Oda clearly disclose the claimed invention except wherein the at least ten telephone number input keys further correspond to the letters “a” through “z” in conformance with a standard telephone keypad.

However, The Examiner takes official Notice that alphanumeric telephone keys are notoriously well known in the art.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Oda to include alphanumeric keys as well known in the art for the purpose of entering alphanumeric characters.

Claims 13 and 19 are rejected under 35 U.S.C. 103(a) as being anticipated by **Oda** (U.S. Patent # **5,703,392**) in view of **Sato** (U.S. Patent #**6,625,283 B1**) and further in view of **P. Capps** (US **2003/0073414 A1**).

Consider **claims 13 and 19**, and as applied to **claims 9 and 17 above**, Oda as modified by Sato clearly discloses the claimed invention except a thumb keypad for controlling the display.

However, in the same field of endeavor, P. Capps clearly show and disclose a thumb keypad 106 (**figure 1a**) for controlling the display (**paragraph 0036**).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Oda as further modified by Sato to include a thumb keypad for the purpose of controlling the display.

(10) Response to Argument

5. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Kim, which shows and discloses an electronic communication device including a front, right, left, and a rear side face with a width W between the left side face and the right side face.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles Shedrick whose telephone number is (571)-272-8621. The examiner can normally be reached on 730am-430pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kincaid Lester can be reached on (571)-272-7922. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Charles Shedrick
Art Unit 2687
December 21, 2005


NICK CORSARO
PRIMARY EXAMINER